

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MICHIGAN

In re:

Case No. GG 19-03908-jtg

CHHATRALA GRAND RAPIDS, LLC,

Chapter 11

Debtor.

Hon. John T. Gregg

**SCHEDULING ORDER REGARDING
MOTION BY RECEIVER TO EXCUSE
COMPLIANCE WITH 11 U.S.C. § 543**

On September 18, 2019, Amicus Management, Inc. (the “Receiver”) filed a Motion by Receiver to Excuse Compliance with 11 U.S.C. § 543 [Dkt. No. 19] (the “Underlying Motion”). Concurrently therewith, the Receiver filed a motion [Dkt. No. 20] (the “Motion to Shorten”) requesting expedited consideration of the Underlying Motion. The court held a hearing regarding the Motion to Shorten on September 18, 2019. The following parties appeared at the hearing:

Robert N. Bassel, Esq., on behalf of the Debtor;
Kelli L. Baker, Esq., on behalf of the Receiver;
A. Todd Almassian and Michael D. Almassian, Esq., on behalf of Access Point Financial, LLC (the “Lender”); and
Matthew W. Cheney, Esq., on behalf of the United States Trustee (the “UST”).

After consultation with the parties, the court decided to schedule the Underlying Motion for a consolidated evidentiary hearing in conjunction with the Lender’s motion to dismiss [Dkt. No. 18] (the “Dismissal Motion”). Therefore, the court has decided to issue the following Scheduling Order setting forth deadlines and other procedures for the evidentiary hearing.

ISSUE

1. Whether the Receiver should be excused from the requirement to turn over property to the Debtor, as debtor in possession. *See* 11 U.S.C. § 543(b)(1).

DISCOVERY

The parties shall engage in good faith, abbreviated discovery, which shall be completed by September 27, 2019. In the event that any party believes that discovery is not being conducted in good faith, this court may be notified upon the filing of a short motion or request for a hearing.

OBJECTION AND REPLY DEADLINES

To the extent any party wishes to concur in the Underlying Motion, such concurrence shall be filed by no later than September 25, 2019 at 12:00 p.m. (Eastern). Any party objecting to the relief requested in the Underlying Motion shall file and serve a written objection by no later than September 27, 2019 at 12:00 p.m. (Eastern). Any replies to objections shall be filed by no later than September 30, 2019 at 12:00 p.m. (Eastern).

EXHIBITS AND WITNESS LISTS

By no later than September 27, 2019 at 12:00 p.m. (Eastern), the parties shall each file with the court and serve (i) a witness list identifying witnesses who may be called to testify at the evidentiary hearing and (ii) a list of exhibits to be used in connection with the evidentiary hearing. The parties shall also deliver three (3) indexed and tabbed binders of exhibits to the court at its Grand Rapids, Michigan location. The Debtor shall identify exhibits with letters, while the Receiver and any other parties shall identify their exhibits with their name and a number (*e.g.*, Receiver-1, Receiver-2, Lender-1, etc.). Each party shall deliver to the other parties one copy of such exhibits. The parties shall be responsible for bringing an additional copy for use by witnesses at the evidentiary hearing. In the event a party intends to rely on the same exhibits with respect to the Dismissal Motion, that party need not file duplicate exhibit binders.

The parties shall file a stipulated joint list of exhibits by no later than September 30, 2019 at 12:00 p.m. (Eastern) indicating which exhibits are subject to objection and which have been stipulated to be admitted. The court will decide any evidentiary issues at the hearing. In the event that no motion objecting to authenticity is filed by September 30, 2019 at 12:00 p.m. (Eastern), the parties shall be deemed to have waived any such arguments.

The court also encourages the parties to stipulate, to the extent possible, to uncontested facts in order to streamline the proceedings. In the event that a party wishes to present direct testimony by affidavit or declaration, that party shall file such a declaration by no later than September 27, 2019 at 12:00 p.m. (Eastern). Absent a stipulation by the other party, any witness providing direct testimony by affidavit or declaration shall be available for cross-examination at the evidentiary hearing.

EVIDENTIARY HEARING DATE AND LOCATION

This matter shall be scheduled for an evidentiary hearing on October 1, 2019 at 9:00 a.m. (Eastern) at the United States Bankruptcy Court, One Division Ave. N., 3rd Floor, Courtroom C, Grand Rapids, Michigan. The hearing shall be consolidated with the hearing on the Dismissal Motion.

IT IS FURTHER ORDERED that the Clerk shall serve a copy of this Order pursuant to Fed. R. Bankr. P. 9022 and LBR 5005-4 upon Robert N. Bassel, Esq., Mark H. Shapiro, Esq., Kelli L. Baker, Esq., A. Todd Almassian, Esq., Michael D. Almassian, Esq., and Matthew W. Cheney, Esq.

IT IS FURTHER ORDERED that the Receiver shall serve a copy of this Order and the Underlying Motion upon the creditor matrix maintained in connection with this case by no later than September 20, 2019.

[END OF ORDER]

Signed: September 19, 2019




John T. Gregg
United States Bankruptcy Judge